

ORDINANCE NO. 30,

SERIES 2018

AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL AMENDING CHAPTER 16, ARTICLES 1, 5 AND 8 OF THE CRESTED BUTTE MUNICIPAL CODE TO INCLUDE DEFINITIONS AND REQUIREMENTS FOR FORMULA BUSINESSES IN THE “T” TOURIST AND “C” COMMERCIAL ZONE DISTRICTS.

WHEREAS, the Town of Crested Butte, Colorado (“Town”) is a home rule municipality duly and regularly organized and existing as a body corporate and public under the Colorado Constitution and laws of the State of Colorado; and

WHEREAS, the Town has authority to enact and enforce land use regulations pursuant to Article XX of the Colorado Constitution, as implemented through the Town of Crested Butte Charter and Code; and Title 31, Article 23, and Title 20, Article 29, C.R.S.; and

WHEREAS, the Town is an uncommon, tightly-knit community with qualities that need to be respected and nurtured so that it can continue to thrive and prosper without the threat of unregulated commercial uniformity and predictability; and

WHEREAS, in 1972, the Crested Butte Town Council (“Town Council”) enacted an ordinance designating the entire town as a historic district; and

WHEREAS, the Town adopted Design Guidelines to preserve the integrity of individual historic structures found throughout the Town; to protect the sense of time and place conveyed by the collection of historic buildings in the historic district; to enhance livability; to protect property values and investments; to retain a small town image and atmosphere; to minimize negative impacts on adjacent properties from drainage and snow shedding; to encourage pedestrian activity; to convey a sense of human scale; to protect significant views; and to protect the existing sense of community; and

WHEREAS, the National Register of Historic Places has listed a portion of the Town as the “Town of Crested Butte” historic district comprising approximately 189 residential buildings, 217 outbuildings, 44 commercial buildings, and 15 public/social buildings, that together reflect the economic, social, and political dynamics of the Town from the late nineteenth through the mid-twentieth centuries; and

WHEREAS, in 2005, the Colorado Historical Society (now History Colorado) awarded the Town the Stephen H. Hart Award in recognition of Town’s firm commitment to historic preservation; and in 2008, the National Trust for Historic Preservation selected the Town as one of its Dozen Distinctive Destinations, specifically noting that “Crested Butte is an authentic community rich in character that has re-invented itself through the preservation-based revitalization and well-managed growth. The Town is a model for other communities across the nation; and

WHEREAS, Town Council approved Ordinance No. 25, Series of 2018, declaring a moratorium on the issuance of new business occupation licenses under Chapter 6, Article 2 of the Crested Butte Municipal Code for formula restaurant and retail businesses in all Business and Commercial Districts to provide the Town with time and opportunity to study the impacts of new formula businesses upon the Town's established historic character, quality of life, economic health and vitality, and the interests and needs of the community; and to engage in a public process to determine whether any additional regulations should be included in the Town Code; and

WHEREAS, the Town's distinctive character and aesthetics, historical relevance and economic vitality are threatened by the "homogenizing effect" of formula businesses that are reliant upon brand recognition, consistent visual appearances and standardized features; and

WHEREAS, the Town wishes to allow, as conditional uses, formula restaurants and formula motels/hotels in the "T" Tourist zone and formula retail businesses in the "C" Commercial district to provide a broader range of local, regional and national goods and services to residents and visitors while maintaining unique retail, dining and lodging experiences by preserving the integrity and ambience of the historic downtown business district along Elk Avenue and Sixth Street in the B1-B4 Business zones; and

WHEREAS, on November 15, 2018, the Town held a Community Discussion concerning formula businesses and whether such uses should be regulated in Town that was publicly noticed and additional public outreach, education and citizen engagement that included E-blasts by the Chamber of Crested Butte/Mt. Crested Butte; Town posting on its Facebook page; a front page article in the Crested Butte News on November 23, 2018, reporting on the formula business Community Discussion; and

WHEREAS, the Crested Butte Board of Zoning and Architectural Review (BOZAR) at a regular, publicly-noticed meeting on November 27, 2018 discussed and voted 7-0 in favor of forwarding to Town Council its recommendation of approval concerning the proposed text amendment to the Crested Butte Municipal Code (the "Code") that defines and regulates formula businesses within the "T" Tourist and "C" Commercial Zone Districts; and

WHEREAS, Town Council held a properly noticed public hearing to review the BOZAR's recommendation, take public comment, discuss and make findings that the Municipal Code be amended to define and regulate formula businesses within the "T" Tourist and "C" Commercial Zone Districts to preserve the Town's historic and authentic, small mountain town character; to maintain the Town's unique neighborhood shopping, dining and lodging experiences and ambience; to enhance the vitality and sustainability of the local economy; and to serve the health, safety and welfare of the Town, its residents, property/business owners, workers and visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. Amendments to Chapter 16, Article 1, Section 16-1-20 Definitions.

Sec. 16-1-20 of the Code is hereby amended to add the following definitions:

Business, Formula means formula retail business, formula restaurant and formula motel and hotel.

Business, Formula Motel and Hotel means a motel and hotel that is required by contractual or other arrangement to maintain and offer a standardized (“formula”) array of services that includes two or more of the following systemized features: room plans, lobbies, on-site amenities, façade treatments, décor, color schemes, uniform apparel, signs, servicemarks/trademarks or other standardized features; and that causes it to be substantially identical to seven (7)* or more other businesses worldwide regardless of ownership.

Business, Formula Restaurant means a restaurant that is required by contractual or other arrangement to prepare and offer a standardized (“formula”) array of food and beverages for sale to the public for consumption on or off premises that includes two or more of the following systemized features: substantially common food and/or drink menus, ingredients, food preparation, façade treatments, décor, color schemes, uniform apparel, signs, servicemarks/trademarks or other standardized features; and that causes it to be substantially identical to seven (7)* or more other businesses worldwide, regardless of ownership. Regulated formula restaurants shall not be co-located within an exempt formula business.

Business, Formula Retail means a business that is required by contractual or other arrangement to maintain a standardized (“formula”) array of merchandise and/or an array of services that includes two or more of the following systematized features: façade treatments, décor, color schemes, uniform apparel, signs, servicemarks/trademarks or other standardized features; and that causes it to be substantially identical to seven (7)* or more other businesses worldwide, regardless of ownership.

Section 2. Amendments to Chapter 16, Article 5.

a. **Sec. 16-5-30** is hereby amended to add the following conditional uses:

- (24) Formula motel and hotel businesses.
- (25) Formula restaurant businesses.

b. **Sec. 16-5-530** is hereby amended to add the following conditional uses to the “C” District

- (20) Formula retail businesses.

Section 3. Amendments to Chapter 16, Article 8 adding Sec. 16-8-130 Formula businesses-Additional requirements. Chapter 16, Article 8 is hereby amended to add a new **Sec. 16-8-130** to read as follows:

(a) Intent. The purpose of these formula business requirements is to maintain and protect Crested Butte's authentic historic character and small town ambience; ensure the vitality and diversity of the Town's commercial districts; and enhance the quality of life of residents and visitors.

(b) Applicability. These regulations shall apply to Formula Businesses.

(c) Related definitions. For purposes of this section, the following definitions apply:

(1) *Color scheme* means the selection of colors used throughout the business, such as on the walls, furnishings, permanent fixtures or on the building façade.

(2) *Décor* means the interior design and furnishings that may include style of furnishings, shelving, display shelving/racks, wall coverings or other permanent fixtures.

(3) *Façade* means the principal exterior face or front of a building including awnings, overhangs, porte-cocheres that is oriented towards a street, alley or open space.

(4) *Servicemark* means a word, phrase, symbol or design or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

(5) *Signage* means a sign as defined under Sec. 16-1-20.

(6) *Standardized array of merchandize* means fifty percent (50%) or more of the in-stock merchandise is from a single manufacturer or distributor bearing uniform markings.

(7) *Standardized array of services* means a substantially similar set of services or food and beverage menus that are priced, prepared and performed in a consistent manner.

(8) *Trademark* means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs legally registered or established by use that distinguishes the source of the product from one party from those of others.

(9) *Uniform apparel* means standardized items of clothing including but not limited to standardized aprons, pants, shirts, vests, smocks or dresses, hat and pins (other than name tags) with standardized colors and fabrics.

(d) Exemptions. The following formula businesses are exempt from these formula business requirements:

(1) Lumberyards, hardware, automotive, gas stations, grocers, banks/ATMs, financial services, health care, insurance, real estate, medical marijuana centers and retail marijuana stores.

(2) Formula businesses for which a business license was issued prior to the effective date of these regulations.

(3) Construction work on a pre-existing, approved or exempt formula business that is required to comply with fire and/or life safety standards.

(4) Disability access improvements to a pre-existing, approved or exempt formula business.

(e) Formula Business Location Requirements.

(1) Formula motels and hotels, and formula restaurants may be permitted as Conditional uses in the T-Tourist District.

(2) Formula retail businesses may be permitted as Conditional uses in the C-Commercial District.

(3) Formula businesses that are legally in existence as of February 6, 2019 [the effective date of these Regulations] may remain in their current location as a non-conforming use. The same or substantially similar type of use may be transferrable upon sale or transfer of the commercial space or ownership of the business and/or building.

(4) Formula businesses that are legally in existence as of February 6, 2019 [the effective date of these Regulations] may be renovated and/or expanded up to fifteen percent (15%) of the existing gross floor area or a maximum of 1,500 square feet, whichever is less.

(5) Formula business shall comply with all applicable standards of the underlying zone district and the applicable regulations of the Municipal Code including but not limited to Sec. 16-8-30 Criteria for decision and the Crested Butte Town Design Guidelines.

(f) Formula business additional criteria. No Conditional use permit for a formula business shall be approved unless the following criteria are met:

(1) The formula business complements existing businesses and promotes quality, diversity and variety to assure a balanced mix of commercial uses and range of local, regional and national goods and services for residents and visitors.

(2) The formula business has submitted plans, drawings, renderings, visual simulations or other examples that illustrate how it will be consistent with the historic and authentic character of Crested Butte including but not limited to exterior design treatments to appropriately minimize the appearance of “formula” architecture, signage and other treatments to enhance Crested Butte’s authentic historic visual appearance and unique, small town shopping, dining and lodging experiences.

(3) The location and amenities of the formula business are compatible with the Town's pedestrian, bicycle and transit-oriented environment.

(4) The formula business does not include any drive-through facilities.

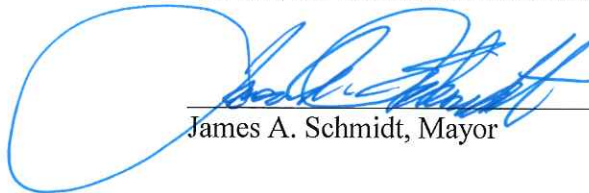
Section 4. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance as an entirety, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 5. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code shall remain valid and in full force and effect. Any provision of the Code that is in conflict with this ordinance is hereby repealed as of the effective date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 17th DAY OF DECEMBER, 2018.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 7th DAY OF January, 2019.

TOWN OF CRESTED BUTTE


James A. Schmidt, Mayor

ATTEST:


Lynelle Stanford, Town Clerk

[SEAL]

